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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,010	04/28/2005	Antoine Clement	4-22780/A/PCT	1689
324 7590 10/01/2007 CIBA SPECIALTY CHEMICALS CORPORATION PATENT DEPARTMENT 540 WHITE PLAINS RD P O BOX 2005 TARRYTOWN, NY 10591-9005			EXAMINER KHAN, AMINA S	
			ART UNIT 1751	PAPER NUMBER
			MAIL DATE 10/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,010

Applicant(s)

CLEMENT ET AL.

Examiner

Amina Khan

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/20/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver (US 3,980,634).

Weaver teaches dyes of the formula (I) where D is the substituents of formula (III) and A is the substituents of formula (V) (column 1, lines 10-25; column 3, lines 25-35) wherein R1 can be ethyl, R2 can be CN, R4 and R6 can be hydrogen, R5 can be NHCOCH3, R6 can be methoxyethyl and R7 can be methoxyethyl (columns 9-14, examples 115, 118, 53 and 48). Weaver further teaches that the dyes can be used to color polyester textiles by disperse dyeing techniques (column 13, lines 39-45). Weaver

Art Unit: 1751

further teaches nitrating the aminophthalimides followed by monohalogenation, diazotization and coupling with aniline (column 2, lines 5-65).

Weaver does not teach all the instantly claimed embodiments in a single example or mixtures of dyes.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the instantly claimed substituents to arrive at the instantly claimed dyes because Weaver teaches that dyes of these formulas are effective in producing colored polyesters with good fastness (abstract). One of ordinary skill would have been motivated to select the instantly claimed substituents absent unexpected results.

Regarding the limitation of dye mixtures, it is conventional in the dyeing art to combine dyes of different colors and shades to arrive at colored textiles of a desired hue. This is simply a design choice and only requires routine skill in the art.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver (US 3,980,634), as applied to the claims above, and further in view of Trottmann (US 5,218,095).

Weaver is relied upon as set forth above.

Weaver does not teach mixtures of dyes.

Trottmann, in the analogous art of dyeing polyesters with phthalimidylazo dyes, teaches that it is conventional to dye polyester using mixtures of similar types of dyes to produce combination shades (column 4, lines 30-40; column 3, lines 60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions of Weaver by incorporating dye mixtures as taught by Trottmann because Trottmann teaches that dyes similar formulas are conventionally mixed to effectively producing colored polyesters with varied shadings. One of ordinary skill would have been motivated to combine the teachings of the references absent unexpected results.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571) 272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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September 26, 2007

*Lorna M. Douyon***LORNA M. DOUYON
PRIMARY EXAMINER**